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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/602,490

06/23/2000

Reiner Kraft

ARC9-1999-0245

1404

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09/29/2009

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EXAMINER

JACOBS, LASHONDA T

ART UNIT

PAPER NUMBER

2457

NOTIFICATION DATE

DELIVERY MODE

09/29/2009

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte REINER KRAFT

Appeal 2008-005216
Application 09/602,490¹
Technology Center 2400

Decided: September 25, 2009

Before LEE E. BARRETT, LANCE LEONARD BARRY, and
HOWARD B. BLANKENSHIP, *Administrative Patent Judges*.

BARRETT, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) from the final rejection of claims 1-23. We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We reverse.

¹ Filed June 23, 2000, titled "System and Method for Web Based Sharing of Search Engine Queries."

STATEMENT OF THE CASE

The invention

This invention relates to Internet Search Technology and E-Commerce and more particularly to an improved method and apparatus for users to share their best search engine queries. Spec. 1. One problem with Internet based searching is that construction of a "good" query can take a considerable amount of time. Another problem is that there are many different search engines which provide different search results. The invention allows a first user to share search queries and for a second user to use that search query string. Spec. 4. Because the overall system depends on the volunteer work of users who share their queries, the motivation for people to make their work available is a reward system which consists of points awarded for submission of a query string. In addition to the points awarded for submission of a query string, a user receives points each time another user uses the query string. Spec. 5.

The claims

Claim 1 is reproduced below:

1. A method of sharing queries in a hub processing unit coupled to a plurality of information processing units over a network, the method on the information processing unit comprising the steps of:

receiving a Uniform Resource Locator (URL) string from a first user;

determining if the URL string represents a query, if the URL string represents a query, performing the sub-steps of:

storing the query in a query database;

forwarding the query to a hub processing unit in the event that the first user selects the query for sharing with a second user connected to the hub processing unit;

storing information in an accounting database for
awarding the first user for submitting the query for sharing; and
receiving, from a second user, a selection for one of the
stored queries for sharing.

The references

Gormley	5,628,004	May 6, 1997
Walker	5,862,223	Jan. 19, 1999
Culliss	6,539,377 B1	Mar. 25, 2003

(continuation of application filed Mar. 1, 1999)

The rejections

Claims 1-23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Culliss, Gormley, and Walker.

PRINCIPLE OF LAW

Obviousness requires that the combination of references teach or suggest to a person of ordinary skill in the art all of the claim limitations. 35 U.S.C. § 103(a). "[T]he test [for obviousness] is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425 (CCPA 1981) (citations omitted).

FINDINGS OF FACT

Culliss

Culliss describes a "method of organizing information in which the search activity of previous users is monitored and such activity is used to organize articles for future users." Abstract.

Culliss describes searching on the Internet for documents, files, databases, text collections, audio clips, video clips, and any other type of information, collectively referred to as "articles." Col. 2, ll. 22-27.

Culliss describes maintaining an "index" of key terms and the articles can be associated with one or more of these key terms. A key term score is associated with each article for each of the key terms in the index. Col. 2, ll. 28-52. The invention utilizes personal data to refine the search results. Personal data may include demographic data, psychographic data, personal interest data, and personal activity data, col. 3, ll. 12-35, and users can explicitly enter their own personal data, or it can be inferred from a history of their search requests or article viewing habits. Col. 3, ll. 46-48.

Culliss describes that when a first user enters a search query, the user's personal data can be considered part of the request and stored within or added to the index along with other items such as key terms, categories, or ratings. Col. 5, ll. 22-25. When a second searcher who has one of the personal data characteristics as the first searcher (or has selected to see results from other searchers having one of the personal data characteristics as the first searcher even if the second searcher does not have that personal data characteristic) enters a search, the system retrieves articles associated with the first searcher's personal data. Col. 5, l. 42 to col. 6, l. 14. "In this manner, the relevancy of articles is determined by the searching activity of

previous searchers which share, or are indicated as having, certain personal data characteristics." Col. 6, ll. 15-17.

We agree with Appellant's finding that "*Culliss* did not contemplate sharing queries with other users." Br. 16, 18. Nor does it appear that the second searcher uses the first searcher's query, but enters his or her own query which is associated with the first searcher's data characteristics.

Gormley

Gormley "relates to a computerized system and database which processes queries and otherwise operates in accordance with user commands to perform telemarketing, mass mailing, direct mailing and other communication functions." Col. 1, ll. 16-20.

Gormley, Figure 1, shows the database management system 10 having workstations or personal computers connected to a conventional local area network (LAN) either directly or through a modem. Col. 5, ll. 9-45.

Gormley describes that "queries can be stored in a file within the database 14. Thus, a user having a valid query permission to do so can select a query from a list of those stored in the query database file (block 244)." Col. 11, ll. 34-37.

Gormley further describes that "[u]sers, however, can share their queries with other users by storing them to a multi-user query library, as indicated in block 194." Col. 11, ll. 44-46.

Walker

Walker relates to electronic commerce, in particular, to a method and apparatus for an expert seeking to sell his services to more efficiently find a client, allow the client to certify and authenticate the expert's qualifications,

allow the client to hire the expert under specific terms and conditions for a specific assignment, and for the client to pay for the expert's services.

Col. 6, l. 56 to col. 7, l. 5.

Walker describes that an end user creates a request, such as a question which requires human judgment, evaluation, analysis, etc. (Fig. 6, step 600); attaches criteria, such as price, time, qualifications, etc. (Fig. 6, steps 630, 635), and transmits it to a central controller (Fig. 6, step 650). Col. 16, l. 62 to col. 18, l. 46. The system may search an end user request database for similar end user requests so that unnecessary duplication of work is not performed and it is simpler and cheaper to use an existing expert answer. Col. 19, l. 66 to col. 20, l. 7; Fig. 7. If the user does not desire to buy an existing answer, the request is sent to the appropriate experts (Fig. 8, step 810), the expert may accept a request (Fig. 8, step 820), and the request is sent to the expert (Fig. 8, step 860). The expert develops an expert answer (Fig. 9, step 900) which is sent to a central controller (Fig. 9, step 920), and after payment by the end user (Fig. 9, step 930), the expert answer is sent to the end user (Fig. 9, step 940), and the expert is paid for his answer (Fig. 9, step 950). Col. 16, l. 53 to col. 21, l. 62 ("Asynchronous Communications Embodiment"). Thus, the expert is paid for expert answers to user requests.

THE REJECTION

The Examiner finds that Culliss describes receiving a Uniform Resource Locator (URL) string from a first user, determining if the URL string represents a query, storing the query in an information processing unit, and forwarding the query to a hub processing unit in the event the first user selects the query for sharing with a second user. Final Rej. 2-3. The

Examiner finds that although Culliss discloses sharing queries between a plurality of clients, Culliss does not explicitly disclose a second user selecting one of the stored queries for sharing. *Id.* at 3. The Examiner finds that Gormley describes a second user selecting one of the stored queries for sharing and therefore it would have been obvious to modify Culliss to allow selection of queries for sharing. *Id.* The Examiner further finds that Culliss in view of Gormley does not explicitly disclose storing information in an accounting database for awarding the first user for submitting the query for sharing. *Id.* The Examiner finds that Walker describes an expert being paid for sharing answers with users and thus teaches storing information in accounting database for awarding the first user for submitting the query for sharing and concludes that it would have been obvious to modify Culliss in view of Gormley to include a database to keep track of payments and incentives to produce an audit trail in a timely and efficient manner. *Id.* at 4.

ISSUES

Based on Appellant's contentions, the issues are: Has Appellant shown that the Examiner erred in concluding that the combination of references teaches or suggests: (1) receiving a URL string representing a query for sharing as recited in independent claims 1, 14, and 22; (2) activating a hyperlink to request a search result upon user selection of the hyperlink as recited in independent claims 9 and 21; and (3) storing information in an accounting database for awarding the first user for

submitting the query for sharing as recited in all independent claims 1, 9, 14, 21, and 22. Br.² 8-18.

ANALYSIS

Issue 1 - Receiving a URL string representing a query for sharing

Appellant argues that "neither *Culliss* nor *Gormley et al.* teach or suggest *determining if the URL string represents a query, and if the URL string represents a query, performing the sub-steps of: storing the query . . . ; forwarding the query . . . for sharing . . . and receiving . . . a selection for one of the stored queries . . .* as recited in amended independent claims 1, 14, and 22 of the instant application." Br. 14. It is argued that *Gormley* is not fully analogous to the present invention because it is not at all Internet related and does not use the terms Internet, URL, HTTP, or hypertext. *Id.* It is argued with respect to independent claim 9 that *Gormley* has a filing date of 1994, when the Internet was in its infancy, and therefore would not have been motivated one skilled in the art to implement the invention over the Internet. *Id.* at 16. It is argued that *Culliss* does not explicitly disclose selecting a query for sharing and that "*Culliss* did not contemplate sharing queries with other users." *Id.*

The Examiner responds that *Culliss* discloses a search query in a URL which is stored within an index and *Gormley* discloses a user accessing the shared query library and the combination teaches determining if the URL string represents a query and storing the query for sharing. Ans. 17-18.

² We refer to the substitute appeal brief filed December 26, 2006 (Br.) and the third Examiner's Answer entered July 17, 2007 (Ans.).

While the Examiner does not address all of Appellant's arguments, we conclude that the limitations would have been obvious. Culliss teaches receiving queries over the Internet and thus teaches receiving a URL string representing a query. Gormley teaches a user sharing a query. Although Gormley is a database system and does not mention the Internet (a point which the Examiner does not address), Gormley is a networked system and one of ordinary skill in the art would have been motivated to apply the query sharing to other network environments because there is nothing special about the network. Thus, we are not persuaded of error as to the argued limitations.

Issue 2 - Activating a hyperlink to request a search result

Appellant argues that Gormley does not disclose any use or connection to the Internet and thus does not teach activating a hyperlink to request a search result as recited in claims 9 and 21. Br. 15, 17.

The Examiner responds that Gormley discloses a shared query library in which users can access queries and "[t]herefore, Gormley [teaches] activating a hyperlink to request result set upon user selection of the hyperlink." Ans. 18.

Although the Examiner does not recognize Appellant's argument that Gormley is not an Internet system and therefore does not use hyperlinks, we conclude that one skilled in the art would have been motivated to apply the query sharing of Gormley to other network environments, such as the Internet, because there is nothing special about the network. Thus, we are also not persuaded of error as to this argued limitation.

Issue 3 - Storing information in an accounting database to award a user for submitting a query for sharing

Appellant argues that the combination of Culliss, Gormley, and Walker do not teach or suggest a first user submitting a query for sharing and a second user selecting one of the stored queries for sharing and:

(1) "storing information in an accounting database for awarding the first user for submitting the query for sharing," as recited in claim 1; (2) "storing information in an accounting database for awarding the first user for submitting the query for sharing" as recited in claim 9; (3) "an accounting database for storing information for awarding the first user for submitting the query for sharing" as recited in claim 14; (4) "means for awarding the first user for selecting the query for sharing" as recited in claim 21; and (5) "storing information in an accounting database for awarding the first user for submitting the query for sharing" as recited in claim 22. Br. 8-9.

The Examiner responds:

Walker discloses an expert user that shares answers with different users and each time the user is satisfied with an expert answer, the expert is awarded with an incentive for sharing answers with other users. The incentives are stored within a database in order to produced and [sic, produce an] audit trail. Therefore, Walker discloses storing information in an accounting database for awarding the first user for submitting the query for sharing (col. 21, lines 64-67, col. 22, lines 1-11 and lines 46- 65).

Ans. 16.

As a matter of claim interpretation, the claim limitations of "for awarding" are interpreted to be statements of intended use since awarding is executory and no step of actual awarding is recited in the independent claims. Nevertheless, the "information for awarding" must be stored in an

"accounting database" (claims 1, 9, 14, and 22) or the "means" (claim 21) and must be capable of being used for awarding the first user for selecting a query for sharing.

The Examiner's statement of the rejection finds that Walker teaches that the expert is awarded for submitting a query for sharing. However, the expert in Walker is not paid for a "query," but is paid for an answer to a user's request. Walker contemplates that a user submits a request and the expert submits an answer, and if the answer is satisfactory to the user, the expert is paid. This is a straight sales transaction. The user's request and expert's answer may be stored in user request database that is checked before a new user request is forwarded to an expert so that unnecessary duplication of work is not performed and because it is simpler and cheaper to use an existing expert answer. Col. 19, l. 66 to col. 20, l. 7; Fig. 7. However, what is stored in the database is the expert's answer to a user's request, not an expert's "query for sharing" and not information for awarding an expert for submitting a query for sharing.

It is true that at an abstract level, a party in Walker is being paid for submitting something, but this does not address the specific words of the claims of storing information in an accounting database for awarding the user for submitting a "query for sharing." The Examiner does not explain why paying an expert for an answer, an information sales transaction, would have made it obvious to pay a user for submitting a query for sharing. While Gormley teaches sharing a query, we find no teaching or suggestion of storing information in an accounting database for awarding the user who submitted the query or that the user even submitted the query with the intent to share. Absent some rationale explaining why Walker's sales transaction

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would have suggested storing information for awarding a user for a query, the rejection fails to establish obviousness. Accordingly, Appellant has shown error in the Examiner's rejection as to all of the independent claims. The rejection of claims 1-23 is reversed.

CONCLUSION

The rejection of claims 1-23 under 35 U.S.C. § 103(a) is reversed.

REVERSED

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